IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1742 OF 2006

Vivek Madhukar Kale. ...Applicant
V/s.
The State of Maharashtra. ...Respondent

Ms.Revati Mohite-Dere for Applicant.
Shri R.Y. Mirza, APP for the State.

CORAM : V.M. KANADE, J.

DATED : MAY 3, 2006

P.C. :-

. Heard learned Counsel for the applicant and learned APP for the State.

2. The applicant was arrested in connection with an offence punishable under Section 347 of the IPC which is registered by the Akluj Police Station. The chargesheet has been filed.

3. It is submitted that the applicant was shown to the complainant in the police station and no separate identification parade was held. It is submitted the gold which was given to one of the jewellers was converted into gold ingot and the statement of the said jeweller also has been recorded. There is no recovery of cash from the present applicants.

4. It is disgusting to note that though several

directions have been given by this Court from time to time that accused should not be shown to the witnesses in the police station and the procedure which is prescribed by the High Court in the High Court Manual for holding identification parade should be followed, yet it has come to the notice of this Court that even today in several cases, the accused are shown by the police in the police station to the witnesses and they have been identified by these witnesses in the police station. As a result of this faulty investigation, the benefit goes to the accused and the crucial piece of evidence is not available to the investigating agency on account of lapse in its investigation.

5. In the present case the only material which is available is in the form of a statement of jeweller who had alleged that the applicant had given the gold ornaments to him. The Court has no other option but to direct the applicant to be released on bail.

6. The applicant be released on bail in the sum of Rs.5000/- with one or two sureties in the like amount. The applicant shall report to the concerned police station once in a month till the disposal of the trial.

7. The applicant shall not tamper with the evidence

or threaten the witnesses. If any complaint is received by the Investigating Officer, the Public Prosecutor is at liberty to file an application for cancellation of bail.

8. The trial Court shall not be influenced by any observations made by this Court while deciding the application and the same shall not be construed as an expression of opinion on merits of the case.

9. The copy of this order be sent Mr.Pasricha, Director General of police.

. The application is disposed of.

(V.M. Kanade, J.)